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Agenda item 131

REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-FIFTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Wael Kamal ABOULMAGD (Egypt)

I. INTRODUCTION

1. The item entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session" was included in the provisional agenda of the forty-seventh session of the General Assembly pursuant to Assembly resolutions 46/56 A and B of 9 December 1991.

2. At its 3rd plenary meeting, on 18 September 1992, the General Assembly on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the following documents:

(a) Report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session; 1/

(b) Report of the Secretary-General on the granting of travel assistance to least developed and other developing countries that are members of the United Nations Commission on International Trade Law (A/47/454);

1/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17).

(c) Letter dated 6 October 1992 from the Chairman of the Sixth Committee to the Chairman of the Fifth Committee (A/C.6/47/4);

(d) Letter dated 12 October 1992 from the Chairman of the Fifth Committee to the Chairman of the Sixth Committee (A/C.6/47/7).

4. The Sixth Committee considered the item at its 3rd to 5th, 9th and 37th meetings, on 23 and 24 September, 6 October and 19 November 1992. The summary records of those meetings (A/C.6/47/SR.3-5, 9 and 37) contain the views of the representatives who spoke on the Item.

5. At the 3rd meeting, on 23 September, Mr. José María Abascal Zamora (Mexico), Chairman of the United Nations Commission on International Trade Law at its twenty-fifth session, introduced the Commission's report on the work of that session. At the 5th meeting, on 24 September, the Chairman of the Commission made a closing statement.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6./47/L.4/Rev.1

6. At the 37th meeting, on 19 November, the representative of Austria introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session" (A/C.6/47/L.4/Rev.1), sponsored by Argentina, Austria, Brazil, Chile, Czechoslovakia, Denmark, Egypt, Finland, Greece, Guinea, Hungary, Kenya, Morocco, Myanmar, Nigeria, Norway, Poland, Spain, Sweden, Thailand, Turkey and Uruguay, later joined by Belarus, Cyprus, Colombia, France, Germany, India, Indonesia, Italy, Mexico and Russian Federation.

7. At the same meeting, the Committee adopted draft resolution A/C.6/47/L.4/Rev.1 without a vote (see para. 9).

8. The representative of Canada made a statement in explanation of position after the adoption of the draft resolution.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all

peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and from different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session, 2/

Mindful of the valuable contribution to be rendered by the United Nations Commission on International Trade Law within the framework of the United Nations Decade of International Law, particularly as regards the dissemination of international trade law,

Concerned about the relatively low incidence of expert representation from developing countries at sessions of the Commission and particularly of its working groups during recent years, due in part to inadequate resources to finance the travel of such experts,

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-fifth session;

2. Takes note with particular satisfaction of the completion and adoption by the Commission of the UNCITRAL Model Law on International Credit Transfers; 3/

3. Recommends that, in view of the current need for uniformity of the law applicable to international credit transfers, all States give due consideration to the enactment of legislation based on the Model Law;

4. Takes note with particular satisfaction of the completion and adoption by the Commission of the Legal Guide on International Countertrade Transactions;

2/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 17 (A/47/17).

3/ Ibid., annex I.

5. Recommends the use of the Legal Guide to parties involved in international countertrade transactions;

6. Recommends also that all efforts should be made so that the Legal Guide becomes generally known and available;

7. Notes with satisfaction the entry into force on 1 November 1992 of the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules), and requests the Secretary-General to make increased efforts to promote wider adherence to the Convention;

8. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law and, in this connection, recommends that the Commission, through its secretariat, should continue to maintain close cooperation with the other international organs and organizations, including regional organizations, active in the field of international trade law;

9. Reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and the desirability for it to sponsor seminars and symposia to provide such training and assistance, and, in this connection:

(a) Expresses its appreciation to the Commission for organizing two seminars on international trade law, the first held at Suva, Fiji, from 21 to 25 October 1991, and the second at Mexico City, on 20 and 21 February 1992, and to the Governments whose contributions enabled the seminars to take place;

(b) Invites Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the trust fund for the United Nations Commission on International Trade Law symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

10. Expresses its appreciation to the Commission for organizing, as a contribution to the activities of the United Nations Decade of International Law, a Congress under the theme "Uniform commercial law in the twenty-first century", held in New York from 18 to 22 May 1992, during the last week of the twenty-fifth session of the Commission, which provided a useful assessment of the progress made to date in the unification and harmonization of international trade law and will assist the Commission and other organizations involved in the unification and harmonization of international trade law in laying out the course of their future work;

11. Repeats its invitation to those States that have not yet done so to consider signing, ratifying or acceding to the conventions elaborated under the auspices of the Commission;

12. Requests the Fifth Committee, in order to ensure full participation by all Member States, to continue to consider granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, as well as, on an exceptional basis, to other developing countries that are members of the Commission at their request, in consultation with the Secretary-General, to enable them to participate in the sessions of the Commission and its working groups;

13. Recommends that the Commission pay special attention to the rationalization of the organization of its work and consider all possibilities for rationalization, in particular the holding of consecutive meetings of its working groups;

14. Requests the Secretary-General to submit a report on the implementation of paragraphs 12 and 13 of the present resolution to the General Assembly at its forty-eighth session.

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CONSIDERATION OF THE DRAFT ARTICLES ON THE STATUS OF THE DIPLOMATIC COURIER AND THE DIPLOMATIC BAG NOT ACCOMPANIED BY DIPLOMATIC COURIER AND OF THE DRAFT OPTIONAL PROTOCOLS THERETO

Report of the Sixth Committee

Rapporteur: Mr. Wael Kamal ABOULMAGD (Egypt)

I. INTRODUCTION

1. The item entitled "Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto" was included in the provisional agenda of the forty-seventh session of the General Assembly pursuant to paragraph 3 of its resolution 46/57 of 9 December 1991.

2. At its 3rd plenary meeting, on 18 September 1992, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it chapter II of the report of the International Law Commission on the work of its forty-first session, 1/ which contained the draft articles adopted at that session by the Commission on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, as well as draft optional protocol one on the status of the courier and the bag of special missions, and draft optional protocol two on the status of the courier and the bag of international organizations of a universal character, also adopted by the Commission at that same session.

1/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10 (A/44/10).

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4. In accordance with paragraph 2 of General Assembly resolution 46/57, informal consultations were held under the chairmanship of one of the Vice-Chairmen of the Sixth Committee, Mr. Peter Tomka (Czechoslovakia), in order to study the above-mentioned draft articles and the draft optional protocols thereto, as well as the question of how to deal further with those draft instruments with a view to façilitating the reaching of a generally acceptable decision in the latter respect. Eight meetings of informal consultations were held between 22 September and 6 November 1992.

5. At the 31st meeting, on 9 November 1992, the Vice-Chairman of the Sixth Committee presiding as Chairman over the informal consultations referred to in paragraph 4 above reported orally on their outcome. At the same meeting, the Sixth Committee took note of his oral report.

6. The summary record of the 31st meeting of the Sixth Committee (A/C.6/47/SR.31) contains the views of the representatives who spoke during the consideration of the item.

II. CONSIDERATION OF DRAFT DECISION A/C.6/47/L.8

7. A draft decision entitled "Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto" proposed by the Chairman of the Sixth Committee was circulated under the item (A/C.6/47/L.8).

8. At its 31st meeting, on 9 November, the Sixth Committee adopted draft decision A/C.6/47/L.8 without a vote (see para. 10).

9. A statement in explanation of position was made by the representative of Argentina (see A/C.6/47/SR.31).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to tne General Assembly the adoption of the following draft decision:

Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto

The General Assembly

(a) Takes note of the report of the Vice-Chairman of the Sixth Committee who presided over the consultations on the draft articles on the status of the

diplomatic courier and the draft optional protocols thereto, 2/ held in accordance with its resolution 46/57 of 9 December 1991;

(b) Decides to include in the provisional agenda of its fiftieth session the item entitled "Consideration of the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier and of the draft optional protocols thereto".

2/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 10 (A/44/10), chap. II.

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REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Mr. Wael Kamal ABOULMAGD (Egypt)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the forty-seventh session of the General Assembly pursuant to paragraph 8 of Assembly resolution 46/58 of 9 December 1991.

2. At its 3rd plenary meeting, on 18 September 1992, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, 1/ which was introduced by the Vice-Chairman of the Special Committee at the 12th meeting of the Committee, on 12 October 1992.

4. The following communications were also circulated under the item:

(a) Letter dated 23 December 1991 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General (A/47/67);

1/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 33 (A/47/33).

(b) Letter dated 27 December 1991 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/47/60-S/23329);

(c) Letter dated 30 July 1992 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General (A/47/356-S/24367);

(d) Letter dated 6 October 1992 from the Permanent Representative of Oman to the United Nations addressed to the President of the General Assembly (A/47/516).

5. The Sixth Committee considered the item at its 12th to 18th and 37th meetings, held from 12 to 21 October and on 19 November 1992. The summary records of those meetings (A/C.6/47/SR.12-18 and 37) contain the views of the representatives who spoke during the consideration of the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/47/L.15

6. At the 37th meeting, on 19 November, the representative of Egypt introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/47/L.15), sponsored by Argentina, Belgium, Brazil, Canada, Chile, Colombia, Cyprus, Czechoslovakia, Ecuador, Egypt, El Salvador, Finland, Guatemala, Indonesia, Malaysia, Morocco, New Zealand, Nigeria, Oman, the Philippines, Spain, Tunisia, Uruguay and Venezuela, later joined by Germany, Guinea, Hungary, Italy, Japan, Mexico, Moldova, Romania and Sierra Leone.

7. The Committee had before it a statement by the Secretary-General (A/C.6/47/L.17) on the programme budget implications of the draft resolution.

8. At its 37th meeting, on 19 November, the Committee adopted draft resolution A/C.6/47/L.15 without a vote (see para. 9).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions, 2/

Bearing in mind the reports of the Secretary-General on the work of the Organization submitted to the General Assembly at its thirty-seventh, 3/ thirty-ninth, 4/ fortieth, 5/ forty-first, 6/ forty-second, 7/ forty-third, 8/ forty-fourth, 9/ forty-fifth, 10/ forty-sixth, 11/ and forty-seventh 12/ sessions, as well as the views and comments expressed on them by Member States,

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2/ Resolutions 31/28 of 29 November 1976, 32/45 of 8 December 1977, 33/94 of 16 December 1978, 34/147 of 17 December 1979, 35/164 of 15 December 1980, 36/122 of 11 December 1981, 37/114 of 16 December 1982, 38/141 of 19 December 1983, 39/88 of 13 December 1984, 40/78 of 11 December 1985, 41/83 of 3 December 1986, 42/157 of 7 December 1987, 43/170 of 9 December 1988, 44/37 of 4 December 1989, 45/44 of 28 November 1990 and 46/58 of 9 December 1991.

3/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 1 (A/37/1).

4/ Ibid., Thirty-ninth Session, Supplement No. 1 (A/39/1).

5/ Ibid., Fortieth Session, Supplement No. 1 (A/40/1).

6/ Ibid., Forty-first Session, Supplement No. 1 (A/41/1).

7/ Ibid., Forty-second Session, Supplement No. 1 (A/42/1).

8/ Ibid., Forty-third Session, Supplement No. 1 (A/43/1).

9/ Ibid., Forty-fourth Session, Supplement No. 1 (A/44/1).

10/ Ibid., Forty-fifth Session, Supplement No. 1 (A/45/1).

11/ Ibid., Forty-sixth Session, Supplement No. 1 (A/46/1).

12/ Ibid., Forty-seventh Session, Supplement No. 1 (A/47/1).

Noting the recommendations relevant to the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization contained in the report of the Secretary-General entitled "An Agenda for Peace", 13/ in the light of the debate within the United Nations, particularly within the General Assembly,

Having considered the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization on the work of its session held in 1992, 14/

Mindful of the desirability of further work being done by the Special Committee in the fields of the maintenance of international peace and security and the peaceful settlement of disputes between States,

Bearing in mind various proposals presented to the General Assembly at its forty-seventh session aimed at strengthening the role of the Organization and enhancing its effectiveness,

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; 14/

2. Decides that the Special Committee will hold its next session from 1 to 19 March 1993;

3. Requests the Special Committee, at its session in 1993, in accordance with the provisions of paragraph 4 below:

(a) To accord priority to the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context:

(i) To continue its consideration of the proposal on the enhancement of cooperation between the United Nations and regional organizations;

(ii) To continue its consideration of the proposal on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

(iii) To consider other specific proposals relating to the maintenance of international peace and security already submitted to the Special Committee or which might be submitted to the Special Committee at its session in 1993;

13/ A/47/277-S/24111.

14/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 33 (A/47/33).

(b) To continue its work on the question of the peaceful settlement of disputes between States and, in this context:

(i) To consider the proposal on United Nations rules for the conciliation of disputes between States;

(ii) To consider other specific proposals relating to the question of the peaceful settlement of disputes between States already under consideration in the Special Committee or those that might be submitted to the Special Committee at its session in 1993;

(c) To consider various proposals with the aim of strengthening the role of the Organization and enhancing its effectiveness;

4. Also requests the Special Committee to be mindful of the importance of reaching general agreement whenever that has significance for the outcome of its work;

5. Decides that the Special Committee shall accept the participation of observers of Member States in its meetings, including those of its working group, and also decides that the Special Committee shall be authorized to invite other States or intergovernmental organizations to participate in the debate in plenary meetings of the Committee on specific items where the Committee considers that such participation would assist in its work;

6. Requests the Special Committee to submit a report on its work to the General Assembly at its forty-eighth session;

7. Decides to include in the provisional agenda of its forty-eighth session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".